

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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BERNARD RIMPEL, M.D.,

Plaintiff,

-against-

ADVANTAGECARE PHYSICIANS, P.C.,

Defendant.
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**REPLY
DECLARATION OF
NICOLLE COMEFERO**

17-CV-06867 (NGG) (PK)

NICOLLE COMEFERO, declares upon personal knowledge under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am the HR Business Partner at EmblemHealth Services, the parent company of AdvantageCare Physicians, P.C. (“ACPNY” or “Company”). I respectfully submit this Reply Declaration in support of the application to this Court seeking summary judgment and the dismissal of Plaintiff’s Complaint, and specifically to address an issue that was raised by Dr. Rimpel in his submission to the Court.

2. I understand that Dr. Rimpel has pointed to two audit-related documents: a general memorandum referencing a total audit monthly score for the month of February 2016 (attached to this Declaration as Exhibit A) and a specific daily audit report for February 29, 2016 (attached to this Declaration as Exhibit B). Based in part on my review of the documents and the information received from our Revenue Cycle and Auditing Department, these two documents do not provide the same information, and they are not inconsistent.

3. The memorandum attached as Exhibit A refers to the total monthly audit scores for Dr. Rimpel for three separate months. According to the memorandum, for the entire month of February 2016, Dr. Rimpel’s audit score was 73%. However, the daily audit report attached as

Exhibit B looks at a specific daily score for particular coding issues that were re-audited for that day. In other words, the rating provided in that document (*i.e.*, a rating of 82) only reflects the specific follow up coding issues that were re-audited for that particular day. As a result, the fact that an overall rating of 82 was referenced for the re-audited issues on February 29, 2016 is not inconsistent with the overall rating of 73 that was referenced for the entire month of February 2016.

4. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 6th day of August 2019 in New York, New York.

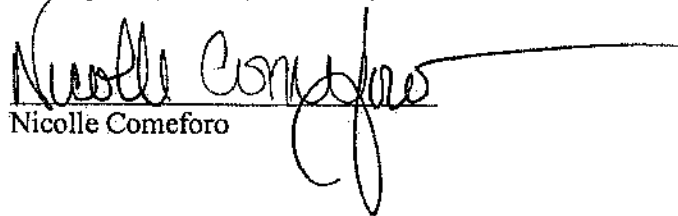

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EXHIBIT A

Bernard Rimpel, MD

Meeting Date: TBD
Specialty: General Surgery
3 Audit Review Average: 71%
Audit Review Month/Dates: 2/2016, 1/2015, 7/2014

General Audit Issues

Dr. Rimpel appears to be moving backwards in his scoring. His February 2016 score is 73%, January 2015 90%, and July 2014 50%. There was improvement, but his recent audit is showing similar patterns of documentation when he was scoring poorly. His issues are as follows:

- The Provider needs a refresher on which presenting problems are low, moderate, and high medical decision making (MDM).
- The Provider needs a refresher on when it is appropriate to code an E/M in addition to procedures performed.
- For the above audits, over-coding appears to be caused by under documenting the history and exam to support his MDM. However, there are a few cases where he uses a level 4 CPT code, and his MDM documents one stable problem for established patients.
- History of Present Illness (HPI) is stated, but does not consistently describe the nature of or use descriptors to capture the nature of the patient's present illness which is a documentation guideline requirement.
- Review of systems (ROS) is often not documented well enough to support higher level MDM.
- Exam documentation is templated. The Provider must remember to tailor the exam to the patient seen to avoid cloning.
- History and exam documentation do not support medical decision making (MDM). The Provider requires a refresher on how to adequately support MDM via the history (ROS) documentation.

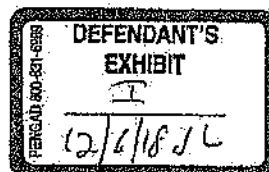


EXHIBIT B

Specialty General Surgery

Review Name February 2016	Date 2/29/2016	Type Annual	Overall Rating	Doc pliance %	Com- plete %	Correct Code %	Under Code %	Over Code %	Wrong Code %	Status	Meeting Met Date 3/8/2016	Letter Sent
Patient MRN: 5040800 Performing Prov	DOS 2/2/2016	CPT Billed 99214	82	82						Complete		
		CPT Supported 99204			MDM 4	Exm 5			Determination Correct Coding			
Patient MRN: 5058493 Performing Prov	DOS 2/4/2016	CPT Billed 99214			MDM 4	Exm 4			Determination Correct Coding			
		CPT Supported 99214			MDM 4	Exm 4			Determination Correct Coding			
Patient MRN: 5122501 Performing Prov	DOS 2/2/2016	CPT Billed 99024			MDM 4	Exm 4			Determination Correct Coding			
		CPT Supported 99214			MDM 4	Exm 4			Determination Correct Coding			
Patient MRN: 5276850 Performing Prov	DOS 2/4/2016	CPT Billed 99214			MDM 4	Exm 4			Determination Correct Coding			
		CPT Supported 99214			MDM 4	Exm 4			Determination Correct Coding			
Patient MRN: 5293776 Performing Prov	DOS 2/2/2016	CPT Billed 99214			MDM 4	Exm 4			Determination Correct Coding			
		CPT Supported 99214			MDM 4	Exm 4			Determination Correct Coding			
Patient MRN: 5313492 Performing Prov	DOS 2/2/2016	CPT Billed None			MDM 4	Exm 4			Determination Correct Coding			
		CPT Supported 11300			MDM 4	Exm 4			Determination Correct Coding			
Patient MRN: 5398400 Performing Prov	DOS 2/4/2016	CPT Billed 99215			MDM 5	Exm 4			Determination Correct Coding			
		CPT Supported 99214			MDM 4	Exm 4			Determination Correct Coding			
Patient MRN: 5613785 Performing Prov	DOS 2/1/2016	CPT Billed 99214			MDM 4	Exm 4			Determination Correct Coding			
		CPT Supported 99214			MDM 4	Exm 4			Determination Correct Coding			

"All other systems reviewed and are negative." As of June 2016, ACP is no longer using consultation codes for internal referrals.

Documentation status condition is stable, and without exacerbation.

Konabos 20mg was injected (x2 units)

CONFIDENTIAL

CONFIDENTIAL

Last Review: 2/20/2016

Statistically General Support

Patient MRN: 5871778

Performing Prov

DOS
2/1/2016

CPT	Billed	Supported	Hist	Exm	MDM	Medical Necess	Determination
99202	99203	99202	2	3	4		Overcode +1 Level

Patient MRN: 6018059

Performing Prov

DOS
2/2/2016

CPT	Billed	Supported	Hist	Exm	MDM	Medical Necess	Determination
99215	99215	99215	3	5	5		Correct Coding

If split-shared visit, best to code bill with PA's NPI as documentation better suits new patient level 3 requirements.

Review Name

January 2015

Date

1/31/2015

Type

Re-Audit

Overall Rating	Doc Com- pliance %	Correct Code %	Wrong Code %	Status	Meeting Met Date	Letter Sent
90	90			Complete		

Review done by Andriada Pop. Sample of 10 notes. Generally, HPI is more brief than extended. ROS needs to say "All others reviewed" not "Comprehensive review". Histories are marked as reviewed. Improve documentation of sizes and location of lesions. All Consultation guidelines are met. In general, undercoding was 60%. Doing much better to meet documentation guidelines now that has been four months in EPIC.

NOTE: Due to inclement weather ACP closed doors on the scheduled meeting date of 01/27/15 - no meeting. Apog

Patient MRN: 5037745

Performing Prov

DOS
1/20/2015

CPT	Billed	Supported	Hist	Exm	MDM	Medical Necess	Determination
11900	11900	11900					Correct Coding

Document better the number of lesions. J code was not coded.

Patient MRN: 5062735

Performing Prov

DOS
1/20/2015

CPT	Billed	Supported	Hist	Exm	MDM	Medical Necess	Determination
29580	29580	29580					Correct Coding

Patient was seen for 1st time to be evaluated. Wound debridement code 97397 could have been used as well. Need to document size of wound.

Patient MRN: 5113635

Performing Prov

DOS
1/22/2015

CPT	Billed	Supported	Hist	Exm	MDM	Medical Necess	Determination
99243	99243	99243	3	3	3		Correct Coding

Patient MRN: 5147158

Performing Prov

DOS
1/15/2015

CPT	Billed	Supported	Hist	Exm	MDM	Medical Necess	Determination
99212	99212	99213	4	4	3		Under Coding

Patient MRN: 5170258

Performing Prov

DOS
1/22/2015

CPT	Billed	Supported	Hist	Exm	MDM	Medical Necess	Determination
17250	17250	17250					Correct Coding

D0475